

**LEWIS  
AND  
ROCA**  
LLP  
L A W Y E R S

E-Filed on June 6, 2006

3993 Howard Hughes Parkway, Suite 600  
Las Vegas, NV 89109  
Facsimile (702) 949-8321  
Telephone (702) 949-8320

40 North Central Avenue, Suite 1900  
Phoenix, Arizona 85004-4429  
Facsimile (602) 734-3824  
Telephone (602) 262-5311

Susan M. Freeman AZ State Bar No. 004199  
Email: sfreeman@lrlaw.com  
Rob Charles NV State Bar No. 006593  
Email: rcharles@lrlaw.com  
Scott K. Brown AZ State Bar No. 020390  
Email: sbrown@lrlaw.com

Proposed Attorneys for Official Committee of Unsecured Creditors

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

**In Re:**

**USA Commercial Mortgage Company**  
**06-10725 – Lead Case**

**USA Capital Realty Advisors, LLC**  
**06-10726**

**USA Capital Diversified Trust Deed Fund,**  
**LLC**  
**06-10727**

**USA Capital First Trust Deed Fund, LLC**  
**06-10728**

**USA Securities, LLC**  
**06-10729**

**Debtors.**

Jointly Administered

Chapter 11 Cases

Judge Linda B. Riegle Presiding

**EX PARTE APPLICATION FOR  
ORDER SHORTENING TIME TO  
HEAR APPLICATION BY  
OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS TO  
EMPLOY LEWIS AND ROCA LLP  
AS COUNSEL FOR THE  
CREDITORS COMMITTEE OF  
USA COMMERCIAL MORTGAGE  
COMPANY**

Date: N/A

Time: N/A

**Affecting:**

.. All Cases

**or Only:**

× USA Commercial Mortgage Company

.. USA Capital Realty Advisors, LLC

.. USA Capital Diversified Trust Deed Fund,  
LLC

.. USA Capital First Trust Deed Fund, LLC

The Official Committee of Unsecured Creditors for USA Commercial Mortgage Company (the “Committee”), by and through its proposed attorneys, Lewis and Roca LLP, filed their Application by Official Committee of Unsecured Creditors to Employ Lewis



1 and Roca LLP as Counsel for the Creditors Committee (the “Application”). This Ex Parte  
2 Application for Order Shortening Time to Hear the Application is made and based upon  
3 Fed. R. Bankr. P. 9006, the following memorandum of points and authorities, the  
4 Declaration of Rob Charles, Attorney Information Sheet filed contemporaneously  
5 herewith, and the papers and pleadings on file herein, judicial notice of which is  
6 respectfully requested.

7 WHEREFORE, the Committee respectfully requests that this Honorable Court  
8 grant this ex parte application and issue an order shortening time to hear the Application at  
9 the Omnibus Hearing on June 15, 2006 (the “June 15 Hearing”), and for such other and  
10 further relief as the Court deems just and proper.

11 DATED June 6, 2006.

12 LEWIS AND ROCA LLP

13  
14 By: /s/ RC (#0006593)  
15 Susan M. Freeman  
16 Rob Charles  
17 *Proposed Attorneys for the Official*  
18 *Committee of Unsecured Creditors for*  
19 *USA Commercial Mortgage Company*  
20  
21  
22  
23  
24  
25  
26

**DECLARATION  
OF ROB CHARLES**

I, Rob Charles, declare under penalty of perjury:

1. I am over the age of 18, am mentally competent, have personal knowledge of the facts in this matter, and if called upon to testify in this matter, could and would do so.

2. I am a partner with the law firm of Lewis and Roca LLP, counsel for the Official Committee of Unsecured Creditors of USA Commercial Mortgage Company in the above-captioned bankruptcy cases (the "Chapter 11 Cases"), and duly licensed to practice law in the States of Nevada and Arizona.

3. On April 13, 2005 (the "Petition Date"), USA Commercial Mortgage Company ("USA Mortgage"), USA Securities, LLC ("USA Securities"), USA Capital Realty Advisors, LLC ("USA Realty"), USA Capital Diversified Trust Deed Fund, LLC ("USA Diversified"), and USA Capital First Trust Deed Fund, LLC ("USA First" and, collectively with USA Mortgage, USA Securities, USA Realty, and USA Diversified, the "Debtors") filed voluntary petitions for relief under Chapter 11, Title 11 of the United States Code.

4. On May 16, 2006, a Notice of Appointment of Official Committee of Unsecured Creditors for USA Commercial Mortgage Company was filed by the Office of the U.S. Trustee.

5. The Committee had considered retaining the firm over some time, interviewed the firm on May 26, 2006, and on June 1, 2006, the Committee formally decided to retain Lewis and Roca as its counsel.

6. An omnibus hearing has been scheduled for June 15, 2006, at which time certain motions and applications are scheduled to be heard, including:

**9:30 a.m.**

- **Motion for Relief from Stay Property: Loan Servicing Agreement for Direct Loan to Boise/Gowan, LLC [DE 292, 294]**

- **Debtor's Motion to Temporarily Hold Funds Pending a Determination of the Proper Recipients [DE 173] (continued from 6/05/05)**

**10:00 a.m.**

- **Direct Lenders' Motions: (1) Motion to Compel Debtor to Continue to Forward Lender Payment to Direct Lenders; and (2) to Delay or Prohibit Appraisals on Performing Loans [DE 215] (continued from 6/05/06)**
- **Motion Regarding PDG's Disbursement of Interest Payments to Debtor [324]**

7. As this Court is well aware, the Chapter 11 Cases are moving forward at an extraordinary pace, and therefore it is critical that the Committee be thoroughly represented with regard to the numerous pending motions and applications. As such, it is necessary that the Application be heard at the June 15 Hearing at 9:30 a.m. Notably, the Office of the U.S. Trustee, counsel for the above-captioned Debtors, and counsel for the Committees who have appeared through counsel have agreed to have the Application on shortened time.

I make this declaration under penalty of perjury of the laws of the United States.

DATED June 6, 2006.

\_\_\_\_\_  
/s/ RC (#0006593)

Rob Charles

**LEGAL ARGUMENT**

Section 105, Title 11 U.S. Code (the “Bankruptcy Code”) allows this Court to issue such orders as are necessary to carry out the provisions of this title. Fed. R. Bankr. P. 9006(c)(I) generally permits a Bankruptcy Court, for cause shown and in its discretion, to reduce the period during which any notice is given in accordance with the Bankruptcy Rules. Bankruptcy Rule 9006(c)(I) provides as follows:

Except as provided in paragraph (2) of this subdivision, when an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

11 U.S.C. § 105. Local Rule 9006 provides further authority for shortening the time for a hearing. According to Local Rule 9006(b), every motion for an order shortening time must be accompanied by an affidavit stating the reasons for an expedited hearing. As set forth in the Charles Declaration, there is a compelling reason for an expedited hearing.

Local Rule 9006 requires the moving party to submit an Attorney Information Sheet indicating whether opposing counsel was provided with notice, whether opposing counsel consented to the hearing on an order shortening time, the date counsel was provided with notice and how notice was provided or attempted to be provided. An attorney Information Sheet was filed contemporaneously with this ex parte motion.



**CONCLUSION**

WHEREFORE, the Committee respectfully requests that this Honorable Court grant this ex parte application and issue an order shortening time to hear the Application and for such other and further relief as the Court deems just proper.

DATED June 6, 2006.

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)  
Susan M. Freeman  
Rob Charles  
*Proposed Attorneys for the Official  
Committee of Unsecured Creditors for  
USA Commercial Mortgage Company*